

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DISH NETWORK L.L.C.,

Plaintiff,

v.

YAHYA ALGHAFIR, TEXAS
COMMUNICATION &
TECHNOLOGY LLC, SHENZHEN
JIEMAO TECHNOLOGY CO., LTD.,
and SHENZHEN STREET CAT
TECHNOLOGY CO., LTD.,
individually and together d/b/a Super
Arab IPTV,

Defendants.

Civil Action No. 4:20-cv-01678

**PLAINTIFF DISH NETWORK L.L.C.'S
MOTION FOR ENTRY OF DEFAULT**

Plaintiff DISH Network L.L.C. (“DISH”) respectfully requests that the Court strike Defendant Shenzhen Jiemao Technology Co., Ltd.’s (“Jiemao”) pleadings and defenses and enter default against Jiemao and all other Defendants pursuant to Federal Rule of Civil Procedure 55(a), with regard to the allegations in DISH’s Complaint (Dkt. 1).¹ Entry of default against Jiemao is proper because it has not filed an answer and it is company that a not represented by counsel, despite the

¹ All the other Defendants failed to answer or defend, and the Court should enter default against them. DISH filed an application for Clerk’s entry of default against Yahya Alghafir and Texas Communication & Technology LLC on July 14, 2020. (Dkt. 12.) DISH filed an application for Clerk’s entry of default against Shenzhen Street Cat Technology Co., Ltd. on November 12, 2020. (Dkt. 23.) DISH filed a combined motion for entry of default and default judgment against all Defendants on June 24, 2021. (Dkt. 31.)

Court's prior order admonishing it of its obligation to retain counsel and that failure to do so would result in the Court striking its pleadings and may result in the entry of default. (Dkt. 41 at 5-6, n.3.)

On October 19, 2020, the Court granted DISH's motion for alternative service on Jiemaο. (Dkt. 20; Declaration of Stephen M. Ferguson [Ferguson Decl.] ¶ 2.) Pursuant to the Court's order, DISH served the summons and complaint on Jiemaο by email at *superarabiptv@hotmail.com* on October 21, 2020. (Dkt. 21; Dkt. 21-2; Ferguson Decl. ¶ 3.)

On November 6, 2020, Jiemaο filed a motion to dismiss for lack of personal jurisdiction and for failure to state a claim. (Dkt. 22.) Jiemaο's motion to dismiss was denied on May 25, 2021, and DISH served Jiemaο with the order on May 26, 2021. (Dkt. 29; Ferguson Decl. ¶ 7.) Jiemaο's answer was due 14 days later on June 8, 2021. *See* Fed. R. Civ. P. 12(a)(4)(A). Jiemaο did not file an answer.

On June 24, 2021, DISH filed a combined motion for entry of default and default judgment against all Defendants including Jiemaο (the "Default Motion"). (Dkt. 31.) Jiemaο opposed the Default Motion, and incorporated within its opposition was Jiemaο's second motion to dismiss based on the statute of limitations, which the Court docketed as a separate motion. (Dkts. 35-36.) The Court denied DISH's Default Motion noting that Jiemaο has "[s]ought to defend itself."

(Dkt. 37 at 2.) The Court also denied Jiemao’s second motion to dismiss on September 22, 2021. (Dkt. 41 at 4-6.)

On September 22, 2021, the Court entered an order informing Jiemao that corporations are required to obtain counsel. (*Id.* at 5.) The Court stated “[b]efore dismissing the claims or striking the pleadings of a corporation that has failed to retain counsel, a court must first admonish the corporation of its obligation to retain counsel.” (*Id.*) The Court ordered Jiemao to produce proof it has retained counsel licensed to practice in this jurisdiction, or the Court would strike Jiemao’s pleadings and may result in the entry of a default. (*Id.* at 6, n.3.)

Although Jiemao retained counsel that filed a notice of appearance on October 5, 2021, Jiemao did not answer DISH’s complaint. (Dkt. 42.) Jiemao also failed to communicate with its counsel resulting in Jiemao’s counsel filing two motions to withdraw. (Dkts. 45, 51.) Jiemao’s counsel filed his first motion to withdraw on January 31, 2022, asserting “serious difficulties communicating with Jiemao.” (Dkt. 45 at 1.) On February 1, 2022, the Court denied Jiemao’s counsel’s first motion to withdraw and the parties filed a Joint Pretrial Order stipulating to nearly all of the relevant facts and propositions of law.² (Dkts. 46-47).

² Jiemao failed to file its proposed findings of fact and conclusions of law, pretrial brief, and witness and exhibit list as required by Judge Hittner’s procedures. (*See* Dkt. 47; <https://www.txs.uscourts.gov/sites/txs/files/dh.pdf> at 9.) Jiemao also failed to participate in discovery resulting in the admission of all of DISH’s requests for admission. (Dkt. 47 at 9, 27 ¶¶ 5, 22.)

Jiemaos counsel filed his second motion to withdraw on June 3, 2022, stating “ever since Counsel’s last lengthy written correspondence to Jiemaos on April 25, 2022, Counsel has not heard back *in any way* from its client.” (Dkt. 51 at 2.) A hearing on the second motion to withdraw was held on June 17, 2022, during which Jiemaos counsel confirmed that Jiemaos was aware that as a corporation it had to be represented by counsel or its pleadings would be struck and default could be entered. (Dkt. 53; Ferguson Declaration 4.) The Court granted Jiemaos counsel’s second motion to withdraw on June 23, 2022. (Dkt. 54.) Jiemaos has not retained other counsel to represent it in this case. (Ferguson Declaration 5.)

Docket call is set for August 12, 2022. (Dkt. 50.) Jiemaos has not filed an answer to DISH’s complaint. (Ferguson Decl. ¶ 6.) Jiemaos is not represented by counsel despite being on notice that this would result in the Court striking Jiemaos’s pleadings and may result in the entry of a default. (*Id.* ¶ 5; Dkt. 41 at 6, n.3.) Jiemaos is a foreign company and not a minor, incompetent, or exempt under the Servicemembers’ Civil Relief Act. Fed. R. Civ. P. 55(b)(2); (*See* Ferguson Decl. ¶ 7, Ex. 1.)

For the foregoing reasons, DISH respectfully requests that the Court strike Jiemaos’s pleadings and defenses and enter default against Jiemaos and all other Defendants. Upon entry of default, DISH requests that the Court reconsider DISH’s previously filed Default Motion (Dkt. 31).

Dated: July 5, 2022

Respectfully submitted,

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